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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/680,918
Filing Date: October 08, 2003
Appellant(s): FIRESTONE ET AL.

Thomas J. Frame
For Appellant

EXAMINER'S ANSWER (supplemental)

This is in response to the amended appeal brief filed on 6-1-2007 appealing from the Office action mailed 6-7-2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: regarding rejection of claims under 35 U.S.C 112 first paragraph, Appellant alleges that "The examiner has also rejected all claims based on 35 U.S.C 112, but unfortunately that rejection is based on (presumably) the Examiner's lack of initiative in reading Applicants' Specification.

Applicant's have identified several portions of the Specification in order to better assist the Examiner in understanding the present invention". This allegation of the Appellant on the Examiner is at best self serving and baseless in that although Examiner, after diligently reading Appellant's specification, raised this issue (lack of disclosure) with the Appellant on several occasions via final rejection and advisory action, he never identified any relevant page number and line numbers or relevant items of the drawings to support the claim limitations rejected under 35 U.S.C 112 first paragraph other than making general statements that his specification is replete with disclosure to support the claim limitations rejected under 35 U.S.C 112. This is further elaborated on the examiners advisory action dated 9-6-2006 and Final rejection dated 6-9-2006.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,128,649	Smith et al.	10-3-2000
US2004/0008635A1	Nelson et al.	1-15-2004
6,300,973	Feder et al.	10-9-2001
6,590,604	Tucker et al.	7-8-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. For example independent claim 1 has limitation such as audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to have to perform audio mixing. Regarding this limitation, there is no disclosure in the applicant's specification to support this disclosure. Applicant's specification discloses audio mixer only that mixes audio signals and it does not create a mixed stream which includes audio and video stream as claimed in claim 1 of the applicant's invention. Similar limitation are included in other independent claims 11, 19, 27.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-8, 11-18, 19-26, 27-34 rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (US PAT: 6,128,649, hereinafter Smith) in view of Nelson (US2004/0008635A1, hereinafter Nelson, filed 7-10-2002).

Regarding claim 1, Smith discloses an apparatus for executing a video conference, comprising: an audio mixer operable to receive one or more audio streams associated with video conference from one or more end points and to determine active speaker associated with one of the end points (fig. 5, col. 8 lines 12-22), one or more media switches in (12, fig. 20, col. 27 lines 11-30, col. 6 lines 63-67, col. 7 lines 1-3) operable to receive audio information associated with the active speaker, wherein one or more of audio switches are operable to suppress one or more video streams except for a selected video stream associated with the active speaker, the selected video stream propagating to one or more media switches during the video conference, and wherein a selected one of the media switches is operable to replicate the selected video stream such that it may be communicated to one or more end points associated with the selected media switch (col. 18 lines 36-39, col. 19 lines 3-21).

Regarding claims 11, 19 and 27, Smith discloses the following: receiving one or more audio streams associated with a video conference from one or more points (fig. 20), determining the active speaker with one of the end points, receiving audio information associated with the active speaker at one or more audio switches in (12, fig. 20, col. 6 lines 63-67, col. 7 lines 1-3), suppressing one or more video streams except for a selected video stream associated with the active speaker, the selected video stream propagating to one or more of the media switches during the video conference, replicating the selected video stream such that it may be communicated to one or more of the end points associated with a selected one of the media switches (col. 18 lines 36-39, col. 19 lines 3-21, fig. 4, col. 6 lines 49-62).

Smith differs from claims 1, 11, 19 and 27 in that although he discloses Multipoint Control Unit (MCU) to distribute media streams to the end points in a video conference (col. 6 lines 53-65); he does not explicitly teach the following: audio mixer being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing.

However, Nelson discloses multi-participant conference system which teaches the following: audio mixer (reads on media mixer 132, fig. 4) being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing (paragraphs: 0049, 0054).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Smith’s system to provide for the following: audio mixer being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing as this arrangement would facilitate providing media processing at a central location as taught by Nelson, thus relieving the end terminals of the burden of audio processing which contributes to economical implementation of video conference system.

Regarding claims 2-8, 12-18, 20-26, 28-34, Smith further teaches the following: selected video stream propagates to one or more media switches during video conference using a multicast protocol (col. 6 lines 66-67, col. 7 lines 1-3), performing selected one of a multicast and a unicast operation (reads on receiving lecture, col. 19 lines 9-12) between the selected media switch and the end points associated with the selected media switch (col. 6 lines 66-67, col. 7 lines 1-3), selected media switch is operable to enable a selected one of the end points associated with the video conference to lock on to a participant of the video conference, the selected end point propagating a fixed video (FV) stream associated with the video conference, a selected media switch is operable to control whether a selected one of the end points receives an FV stream, a switched video (SV) stream, or any combination thereof (col. 18 lines 34-39, col. 19 lines 23-45), selected one of the endpoints does not receive an SV stream based on the active speaker, and wherein the selected one of the media switches is operable to enable a selected one of the end points to receive only the SV stream based on a selected whiteboard control feature (col. 19 lines 47-60), selected one of the media switches is operable to enable a moderator (reads on chairperson) of the conference to control a video source such that a selected one of the endpoints receive a selected video stream as determined by the moderator (col. 19 lines 62-67), a media bridge is operable to provide one or more media services for the video conference such that one or more of the media services are delivered to one or more of the endpoints (col. 6 lines 63-67, col. 7lines 1-3).

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Nelson as applied to claim 1 above, and further in view of Feder et al. (US PAT: 6,300,973 B1, hereinafter Feder).

Regarding claim 9, the combination does not explicitly teach the following: media bridge includes a selected one or more of a media transformer, transcoder, and transrater.

However, Feder discloses method and system for multimedia communication control which teaches the following: media bridge includes a selected one or more of a media transformer, transcoder, and transrater (fig. 6 col. 8 lines 38-43).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: media bridge includes a selected one or more of a media transformer, transcoder, and transrater as this arrangement would facilitate performing translation operation to accommodate different kinds end points in video conference as taught by Feder (col. 2 lines 15-21).

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Nelson as applied to claim 1 above, and further in view of Tucker et al. (US PAT: 6,590,604, hereinafter Tucker).

Regarding claim 10, the combination does not teach the following: a gateway operable to provide connectivity to one or more media switches, one or more media switches being operable to facilitate participation in the video conference by the first and second end points.

However, Tucker discloses a personal videoconferencing system which teaches the following: a gateway (708/716, fig. 7) operable to provide connectivity to one or more media switches, one or more media switches being operable to facilitate participation in the video conference by the first and second end points (fig. 7 col. 9 lines 40-63).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: a gateway operable to provide connectivity to one or more media switches, one or more media switches being operable to facilitate participation in the video conference by the first and second end points as this arrangement would facilitate videoconferencing different kind of end points such as H.320 and H.323 end point as taught by Tucker.

(10) Response to Argument

Rejection of claims 1-34 under 35 U.S.C 112 first paragraph, Examiner respectfully submits to BPAI, should be upheld as Appellant has failed to make any arguments to overcome this rejection other than making baseless allegations on the examiner as briefly listed under **(3) Grounds of Rejection to be Reviewed on Appeal**

Rejection of claims 1-8, 11-18, 19-26, and 27-34 under 35 U.S.C 103 as being Obvious over Smith in view of Nelson

Regarding rejection of claims, Appellant, after listing the criteria to establish prima facie 35 U.S.C 103 rejection, alleges that “Applicants submit that the rejected claims are patentable over the art of record based on at least third criterion of obviousness: none of the references alone or in combination teach, suggest, or disclose each and every claim limitation of the independent claims. Applicants pointed out differences …Turning first to Smith reference (the base reference), nothing in Smith teaches an audio mixer that is resident in the network that performs audio mixing such that end points do not have to perform such operations”. Regarding this, as set forth in the final office action: Smith differs from claims 1, 11, 19 and 27 in that although he discloses Multipoint Control Unit (MCU) to distribute media streams to the end points in a video conference (col. 6 lines 53-65); he does not explicitly teach the following: audio mixer being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing.

However, Nelson discloses multi-participant conference system which teaches the following: audio mixer (reads on media mixer 132, fig. 4) being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing (paragraphs: 0049, 0054).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Smith’s system to provide for the following: audio mixer being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing as this arrangement would facilitate providing media processing at a central location as taught by Nelson, thus relieving the end terminals of the burden of audio processing which contributes to economical implementation of video conference system.

Regarding rejection of the claims and especially with respect to Smith reference, Appellant further launches into a dissertation on analogous prior art for the purpose of analyzing obviousness of the subject matter at issue as evidenced by Appellant's last paragraph of page 15 of amended appeal brief, the purport of which is to allege that Smith is not an analogous prior art. Regarding this, Appellant is reminded that Smith relates to video conference (col. 6 lines 63-65; col. 19 lines 4-7) and therefore relevant to Appellants field of endeavor. Besides, Smith reference is provided by the Appellant as part of his IDS.

Regarding Smith reference, Appellant further alleges "Smith (not so coincidently) fails to discuss or explain how multiple sets of media switches would interact with one another. Again, this limitation is found in Independent claim 1 (albeit inherently) and yet it is not found anywhere in the Smith architecture. (Note: Because of the purposeful wording …). This distinction is highly significant … Smith not … but should not be characterized as analogous art". Regarding this, as appellant refers to limitation (multiple sets of media switches would interact with one another) to be inherent, Smith also teaches communication network with switches that inherently interact to provide media streams (fig. 4 col. 6 lines 49-66; fig. 20 lines 11-30). Since Smith teaches above arrangement for video conference, Appellant's allegation that it should not be characterized as analogous art lacks credibility and at best self serving.

Appellant further sets forth on last paragraph of page 16 of his amended appeal brief: "In order to achieve a truly distributed system, media switches must ensure that streams are delivered to end points with proper synchronization. The coordination …

the important point in all such distinctions and features is in implementation of a central device that is capable accommodating mixed streams and alleviating processing burden on end points". Regarding this, Appellant seems simply reading his specification into claims as claims do not recite either lip synchronization or distributed system. As per appellants point about accommodating mixed streams and alleviating processing burdens of end points, Smith implicitly teaches this in that he discloses: The network 12 could be a point to point network, in which one or many MCUs would be required to enable distribution of media streams to multiple users (fig. 4 lines 63-65). Fig. 20 also describes central arrangement to distribute media streams (col. 27 lines 11-19).

Regarding Smith reference, Appellant further argues, in the second paragraph of page 17 of his amended appeal brief, "Thus, in contrast to Smith, the present invention employs use of a central audio mixer which is resident in the network and creates a mixed stream for each end point. Such a shift in processing obligations … this is an example of allocating intelligence in the network, rather than in the end point. Nothing in Smith provides such as disclosure". Regarding this, as set fort in the final office action and repeated here: Smith differs from claims 1, 11, 19 and 27 in that although he discloses Multipoint Control Unit (MCU) to distribute media streams to the end points in a video conference (col. 6 lines 53-65); he does not explicitly teach the following: audio mixer being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing.

However, Nelson discloses multi-participant conference system which teaches the following: audio mixer (reads on media mixer 132, fig. 4) being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing (paragraphs: 0049, 0054).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Smith's system to provide for the following: audio mixer being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing as this arrangement would facilitate providing media processing at a central location as taught by Nelson, thus relieving the end terminals of the burden of audio processing which contributes to economical implementation of video conference system.

Regarding secondary reference Nelson, Appellant, on first paragraph of page 18 of his amended appeal brief, alleges "Throughout its disclosure, Nelson fails to discloses how any end point would avoid the aforementioned processing". Regarding this, Nelson reference is used in order to provide missing limitation, not explicitly explained in Smith reference such as: audio mixer being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing. However secondary reference Nelson teaches: audio mixer (reads on media mixer 132, fig. 4) being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing (paragraphs: 0049, 0054). Since Nelson reference teaches media mixer at a central location as shown in fig. 4, it is obvious that end points are not burdened with processing of mixing media streams.

Regarding rejection of the claims, Appellants continues his argument in first paragraph page 19 of his amended appeal brief, that "Almost all of this information is … In particular, Nelson does not provide how any end point would avoid audio mixing, as recited in Independent Claim 1". Regarding this, as stated before since Nelson reference teaches media mixer at a central location (MCU) as shown in fig. 4 (paragraphs: 0049, 0054), it is obvious that end points are not burdened with processing of mixing media streams.

On paragraphs second, third, fourth of page 19 of his amended appeal brief, Appellant indulges in speculation that combination of Smith and Nelson changes the principle of operation, requires a substantial reconstruction and redesign of the elements of the elements shown in the primary reference as well as a change in basic principle under which [primary reference] construction was designed to operate, and therefore improper to combine Smith with Nelson. Notwithstanding the Appellant's speculation, Smith teaches possibility of central processing audio video streams using

MCU and distributing to end points (col. 6 lines 63-66), although he does not explicitly teach: audio mixer being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing as recited in appellant's claim 1. But Nelson teaches: audio mixer (reads on media mixer 132, fig. 4) being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing (paragraphs: 0049, 0054). In view of this, since the combination of Smith and Nelson teaches Appellant's claim 1 and both references teaches central processing of media streams as explained, Examiner respectfully submits to the BPAI that combination of the references is proper under 35 U.S.C 103 for rejection of Appellant's claims.

Regarding rejection of the claims, Appellant in the last paragraph of page 20 of his amended appeal brief makes various arguments about Smith and Nelson combination which tantamount to arguing against individual references. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Appellant further states in last paragraph of page 20 of his amended appeal brief: "Hence, the decision does not even reach the end points in such a scenario. This implementation lowers the bandwidth usage in the core network. Bandwidth optimization … a mixed stream is sent to by the audio mixer and received by one or more of the end points such as they do not have to handle audio mixing. These limitations are also outlined in independent claim 1". Regarding this, Smith also suggests an arrangement for reducing bandwidth by doing processing in a line card of the switch (fig. 20, col. 27 lines 11-30) and Nelson also teaches providing media Mixer at a central location (fig. 4) which also reduces bandwidth requirements in that only audio and video of the active speaker is sent to the end points. In view of this, Examiner respectfully submits to the BPAI that the combination of Smith and Nelson clearly reads on Appellant's claim 1.

Appellant referring to fig. 20 of Smith (first paragraph of page 21 of amended appeal brief) speculates: "However, this embodiment does not provide true network intelligence, which requires: centralized audio mixing for multiple end points, automatic source pruning, based on feedback from the audio mixer; external video mixing for multiple end points; and transparency for third party end points. Again, all of these features and capabilities … audio mixer is implemented such that end points do not have to perform audio mixing and mixed streams are properly coordinated as is clearly recited in Independent Claim 1". Regarding this, as explained above, Smith also suggests a central processing of media streams by doing processing in a line card of the switch and distributing to end points (fig. 20 col. 27 lines 11-30) or processing at MCU and distributing to end points (fig. 4, col. 6 lines 63-66) which all require processor (intelligence) to do it and Nelson also teaches providing media Mixer at a central location (fig. 4), i.e. processor (intelligence) in order to distribute audio and video of the active speaker to the end points. In view of this, Examiner respectfully submits to the BPAI that the combination of Smith and Nelson clearly reads on Appellant's claim 1.

Regarding rejection of the claims, Appellant, in last paragraph of page 21 of his amended appeal brief, alleges that the combination of various references such as Smith-Nelson, is improper because the Examiner has not shown the required suggestion or motivation in Smith, Nelson, or in knowledge generally available to one of ordinary skill in the art at the time of the invention to combine these references. Regarding this, as set forth in the final office action, Examiner clearly sets forth the motivation or suggestion to combine the above references. For example, final office action sets forth: Smith differs from claims 1, 11, 19 and 27 in that although he discloses Multipoint Control Unit (MCU) to distribute media streams to the end points in a video conference (col. 6 lines 53-65); he does not explicitly teach the following: audio mixer being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing.

However, Nelson discloses multi-participant conference system which teaches the following: audio mixer (reads on media mixer 132, fig. 4) being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing (paragraphs: 0049, 0054).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Smith's system to provide for the following: audio mixer being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing as this arrangement would facilitate providing media processing at a central location as taught by Nelson, thus relieving the end terminals of the burden of audio processing which contributes to economical implementation of video conference system.

In light of this, Examiner respectfully submits to BPAI that examiner has clearly set forth prima facie case of obvious rejection of the claims and provided the motivation or suggestion to combine the references, which Appellant has failed to acknowledge.

Regarding rejection of the claims, Appellant, in the first paragraph of page 22 of amended appeal brief, alleges that "Nothing in smith or Nelson, suggests or motivates the proposed the combination, nor has the Examiner provided evidence that suggests or motivates the proposed combination. This is because … Speculation in hindsight that … which is factual question that cannot be resolved on subjective belief and unknown authority. Regarding this, as explained above, Examiner has clearly set forth the suggestion or motivation to combine Smith with Nelson such: audio mixer being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing.

However, Nelson discloses multi-participant conference system which teaches the following: audio mixer (reads on media mixer 132, fig. 4) being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing (paragraphs: 0049, 0054).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Smith's system to provide for the following: audio mixer being central to the video conference and residing in a network, the audio mixer being able to create a mixed stream which includes audio and video data, that may be communicated to one or more of the end points such that end points do not have to perform audio mixing as this arrangement would facilitate providing media processing at a central location as taught by Nelson, thus relieving the end terminals of the burden of audio processing which contributes to economical implementation of video conference system.

As per Appellant's reference to hindsight, In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Regarding rejection of the claims, Appellant further argues, in the second paragraph of page 22 of his amended appeal brief, “the Examiner has also failed to show a reasonable expectation of success for the proposed combination. Therefore, Applicants respectfully submit that the examiner has also failed to establish the second criteria for prima facie case of obviousness”. Regarding this, the Examiner respectfully submits to BPAI that it is not in the examiner’s remit to provide all the engineering aspects of combining the references to asses its expectation of success.

Regarding independent claims 11, 19, and 27, Appellant argues that they recite limitations similar, but not identical, to those recited in independent claim 1. Therefore, these claims are allowable and corresponding dependent claims from these independent claims are also patentably distinct for analogues reasons. Since independent claim 1 is not patentable as explained above, other independent claims 11, 19, and 27 which are similar to independent claim 1 are not patentable. So are dependent claims.

Rejection of claim 9 under 35 U.S.C 103(a) as being obvious over Smith in view of Nelson and Feder

Regarding rejection of claim 9, Appellant mainly argues that independent claim 1 on which this claim depends is allowable which is not as explained by the examiner in responding to Appellant arguments on claim 1. Therefore rejection of claim 9 is valid as set forth in the office action.

Appellant further alleges that examiner has not provided the motivation to combine the references in rejecting the claim 9 which is not true as evidenced by the office action where motivation to combine the references is clearly set forth.

Rejection of claim 10 under 35 U.S.C 103(a) as being obvious over Smith in view of Nelson and further in view of Tucker

Regarding rejection of claim 10, Appellant mainly argues that independent claim 1 on which this claim depends is allowable which is not as explained by the examiner in responding to Appellant arguments on claim 1. Therefore rejection of claim 10 is valid as set forth in the office action.

Appellant further alleges that examiner has not provided the motivation to combine the references in rejecting the claim 10 which is not true as evidenced by the office action where motivation to combine the references is clearly set forth.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Conferees:

/Melur Ramakrishnaiah/

Primary Examiner, Art Unit 2614

/CURTIS KUNTZ/

Supervisory Patent Examiner, Art Unit 2614

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